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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176901
Party	Plaintiff Bodyonics, Ltd.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Bodyonics, Ltd.

Opposer,

vs.

Jeffrey Lee Kaplan and Ilie
Ionescu,

Applicants.

Opposition No. 91176901

SUPPLEMENTAL OPPOSITION
TO MOTION TO SUSPEND
OPPOSITION HEARING

On October 10, 2007, Applicants served a Revised Motion to Suspend Opposition Hearing, although it bears a service mailing date of September 21, 2007.

The revised Motion, which clearly supersedes the earlier filed Motion, simply requests that the fully briefed and pending Motions in this matter be suspended until some indefinite date in the future when the Applicants newly filed Petition to Cancel Opposer's mark is DECIDED. In other words, Applicants are asking the Board to simply forego any consideration of any issues in the earlier filed and now fully briefed Opposition so that the later filed Cancellation matter can be first decided.

The revised Motion should be denied.

First, applicants provide no authority whatsoever for their request. It is not in the interest of justice, or the interest of either of the parties, to completely suspend a fully briefed matter awaiting a decision in a totally unrelated matter. Since the Applicants now style themselves as fully competent trademark practitioners, it is incumbent upon them to provide the Board with full citations for the legal propositions they espouse. They have failed to show any good cause why the suspension should be granted,

even if otherwise not objectionable.

Second, it is well settled that when a potentially dispositive Motion is filed in a case, as are the pending Cross Motions for Summary Judgment in this case (and it is indeed curious that the Applicants are asking the Board to suspend proceedings herein which would include suspension of their own Motion for Summary Judgment), the Board generally issues a Suspension Order that suspends all further proceedings not germane to the potentially dispositive Motions. While the Board has yet to issue such a Suspension Order in this case, there is no reason to believe that the Board will not issue such an order which will be retroactive to the date of filing of the last filed Motion for Summary Judgment (TBMP 510.03(a)). Thus, ultimately, the Motion to Suspend should be ruled untimely and not to be considered until after the potentially dispositive motions are heard.

Third, the Applicants could have counterclaimed in their Answer to the Notice of Opposition for cancellation of Opposer's mark. The Answer to the Notice of Opposition was filed on May 5, 2007. They waited five months before filing their Petition to Cancel and then ask that everything grind to a halt until their later filed inter-partes proceeding is decided. They had their opportunity to timely raise these issues but chose not to. The fact that they are representing themselves pro per is irrelevant. They now style themselves as fully knowledgeable trademark practitioners and are held to the same standards as any other practitioner before the Board. Indeed, in the papers filed with

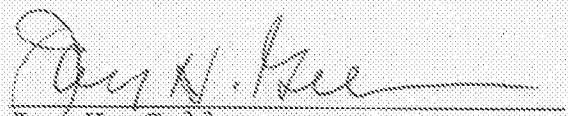
respect to the Motions pending in this matter, one of the alleged grounds for Cancellation - that Opposer's mark is generic - has been raised by Applicants. The only issue that is raised in the Petition to Cancel that has not been raised in this matter is the issue of fraud (which could have also been raised as an affirmative defense and was not).

Significantly, the issues raised by the Opposer in its Motions for Summary Judgment would negate the Petition to Cancel in its entirety since, if the Board grants the Motion for Summary Judgment of the Opposer on the ground that Applicants' mark is generic, Applicants by definition cannot be damaged by Opposer's mark because they have no protectible mark of their own. Consequently, it is in the interest of the parties for the pending Motions in this case to be decided before even considering any of the issues in the Petition to Cancel.

It is clear that the equities here mandate that the Revised Motion to Suspend be denied and that the motions pending before the Board proceed to decision. They have been fully briefed over two months and are in queue for a disposition. Suspending consideration now severely prejudice the Opposer and potentially result in additional, and unnecessary, expenditure of time and money by both the parties and the Board.

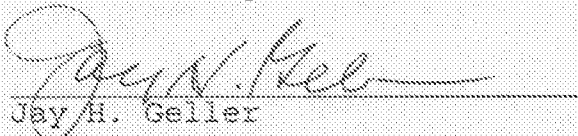
Opposer respectfully requests that the Motion to Suspend be denied.

Dated: October 24, 2007


Jay H. Geller

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I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Ilie Ioncescu and Jeffrey Kaplan at P.O. Box 11106, Ft. Lauderdale, FL 33339 on August 13, 2007.



Jay H. Geller